



# THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

**WILL WILSON**  
ATTORNEY GENERAL

August 30, 1957

Honorable Robert S. Calvert  
Comptroller of Public Accounts  
Austin, Texas

Opinion No. WW-250

Re: Construction of  
Opinions WW-237  
and WW-238.

Dear Mr. Calvert:

You state that there seems to be an apparent conflict between Opinions WW-237 and WW-238 by this department, in view of the fact that Opinion WW-238 calls attention to the fact that the only agencies exempt from the provisions of Article 681, V.A.C.S. are State Educational Institutions of Higher Learning, State Prison System, and the Texas State Board for Hospitals and Special Schools. You then ask to be advised if the Board of Control is required to prepare or approve plans for the construction or improvement of permanent buildings constructed and maintained by the State Highway Department.

In reply to the above you are advised that we do not believe that the opinions are in conflict. In the first place, both opinions were considered at the same time and you will notice that the last paragraph of Opinion No. 238 reads as follows: "This opinion is only applicable to the factual situation presented."

You will notice that in Opinion No. 237 it is stated that it is our opinion that Articles 665-687, V.A.C.S. pertaining to public buildings were intended to apply to those buildings authorized by law to be constructed as public buildings for which appropriation is made and which are for the general use of the public and that said statutes do not apply to such buildings as the Highway Department may deem necessary to construct under its power to construct highways. Buildings to be constructed by the Highway Department under the long continued departmental construction of both this department and the Highway Department might or might not be of permanent nature. Under the opinion the Highway Department is authorized to construct buildings which are necessary to the construction and maintenance of the State Highway system, whether the same be of a temporary or of a permanent nature. The criterion is whether the buildings are necessary to the construction and maintenance of the

Hon. Robert S. Calvert, page 2 (WW-250).

State Highway system.

#### SUMMARY

The Board of Control is not required to prepare or approve plans for the construction or improvement of permanent buildings constructed or maintained by the State Highway Department when said buildings are constructed by the Highway Department as being necessary to the construction and maintenance of the State Highway system as provided by law.

Very truly yours,

WILL WILSON  
Attorney General of Texas

By:   
H. Grady Chandler  
Assistant

HGC:lj

APPROVED:

OPINION COMMITTEE

J. C. Davis, Jr., Chairman

Marvin R. Thomas, Jr.

John H. Minton, Jr.

REVIEWED FOR THE ATTORNEY GENERAL  
BY:

Geo. P. Blackburn